

## § 122.48

## 40 CFR Ch. I (7–1–00 Edition)

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

(ii) The permittee shall cease conducting permitted activities before non-compliance with any interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

(ii) One schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline;

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline.

(iv) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under paragraph (b)(3)(i) of this section it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(4) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm

public commitment satisfactory to the Director, such as a resolution of the board of directors of a corporation.

[48 FR 14153, Apr. 1, 1983, as amended at 49 FR 38050, Sept. 26, 1984; 50 FR 6940, Feb. 19, 1985; 54 FR 18784, May 2, 1989; 65 FR 30909, May 15, 2000]

### § 122.48 Requirements for recording and reporting of monitoring results (applicable to State programs, see § 123.25).

All permits shall specify:

(a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(b) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

(c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in § 122.44. Reporting shall be no less frequent than specified in the above regulation.

[48 FR 14153, Apr. 1, 1983; 50 FR 6940, Feb. 19, 1985]

### § 122.49 Considerations under Federal law.

The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.

(a) The *Wild and Scenic Rivers Act*, 16 U.S.C. 1273 *et seq.* section 7 of the Act prohibits the Regional Administrator from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(b) The *National Historic Preservation Act of 1966*, 16 U.S.C. 470 *et seq.* section 106 of the Act and implementing regulations (36 CFR part 800) require the Regional Administrator, before issuing

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a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(c) The *Endangered Species Act*, 16 U.S.C. 1531 *et seq.* section 7 of the Act and implementing regulations (50 CFR part 402) require the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action authorized by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(d) The *Coastal Zone Management Act*, 16 U.S.C. 1451 *et seq.* section 307(c) of the Act and implementing regulations (15 CFR part 930) prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce overrides the State's nonconurrence).

(e) The *Fish and Wildlife Coordination Act*, 16 U.S.C. 661 *et seq.*, requires that the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State agency exercising jurisdiction over wildlife resources to conserve those resources.

(f) *Executive orders.* [Reserved]

(g) The National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*, may require preparation of an Environmental Impact Statement and consideration of EIS-related permit conditions (other

than effluent limitations) as provided in § 122.29(c).

(Clean Water Act (33 U.S.C. 1251 *et seq.*), Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), Clean Air Act (42 U.S.C. 7401 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*))

[48 FR 14153, Apr. 1, 1983, as amended at 48 FR 39620, Sept. 1, 1983; 49 FR 38050, Sept. 26, 1984]

### **§ 122.50 Disposal of pollutants into wells, into publicly owned treatment works or by land application (applicable to State NPDES programs, see § 123.25).**

(a) When part of a discharger's process wastewater is not being discharged into waters of the United States or contiguous zone because it is disposed into a well, into a POTW, or by land application thereby reducing the flow or level of pollutants being discharged into waters of the United States, applicable effluent standards and limitations for the discharge in an NPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one of the following methods:

(1) If none of the waste from a particular process is discharged into waters of the United States, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards.

(2) In all cases other than those described in paragraph (a)(1) of this section, effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into waters of the United States, and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under part 125, subpart D to make them more or less stringent if discharges to wells, publicly owned